



*Angels Announcing the Birth of Christ to the Shepherds, Govert Flinck (1639)*

# ANGELS, DEMONS, US: RECONCILING RAZ AND AQUINAS ON THE COORDINATIVE FUNCTION OF LAW

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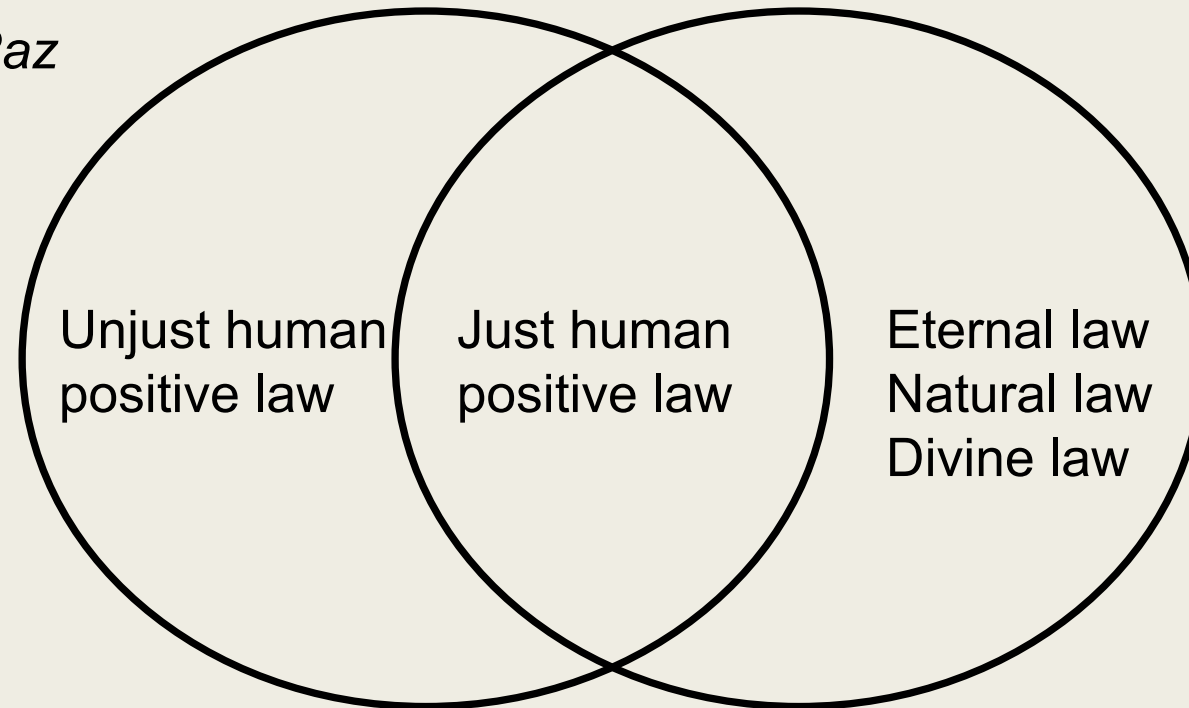
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**‘If men were angels, no government would be necessary.’**

**- James Madison, Federalist 51**

# Law according to Raz and Aquinas

*Joseph Raz*



*St Thomas Aquinas*

# Joseph Raz, *Practical Reason and Norms*

## The 'society of angels' thought experiment

- Imagine a society of 'rational beings <..> who have more enough reasons to obey the law regardless of sanctions'
- They would still need law:
  - *Rules: to resolve disagreements about their values and best policies for implementing them*
  - *Courts: to resolve disputes about interpretation of such rules and exercise discretion when rules 'run out'*
  - *Remedies: to compensate accidental damage that arises from their 'misapprehending the facts or misinterpreting the law'*
- Therefore, law is not necessarily coercive



*Annunciation*, Fra Angelico (1440–1445)

# St Thomas Aquinas, *Summa Theologica*

Part I, Q108, A1

## The divine government:

- Angels - incorporeal beings that love God more than themselves and possess superior intellect to humans
- Still need hierarchy of the 'divine government' as their intellects differ and 'higher' angels need to direct 'lower' angels towards their proper end



*The Annunciation*, Henry Ossawa Tanner (1898)

Part I, Q95, A4

The 'state of innocence':

- No sin, and therefore no reason not to act virtuously
- Still need authority (man would be 'master over man'):
  - *Expertise: some men 'surpass [others] in knowledge and virtue' and it is thus their duty to guide the latter*
  - *Coordination: 'a social life cannot exist among a number of people under the presidency of one to look after the common good; for many, as such, seek many things, whereas one attends only to one'*



*The Expulsion from the Garden of Eden, Masaccio (1898)*

### Two purposes of human law:

- Coercion - so those 'prone to vice' are made to act virtuously for the sake of others and themselves
  - *Main use, but not the main purpose, only needed in an imperfect society*
- Coordination – *determinatio*, or specification of general principles of natural law



*Saint Michael Vanquishing Satan,*  
Raphael (1518)

# Raz v Aquinas

- In common: **law is needed for coordination**
- Differ on the proper end of coordination
  - **Raz:** needed to realise **individual goals**
  - **Aquinas:** needed to realise **the common good**



*Song of the Angels,*  
William-Adolphe Bouguereau  
(1881)



# What about ‘a society of demons’?

“The problem of the formation of the state, hard as it may sound, is not insoluble, even for a race of devils, granted that they have intelligence”

Immanuel Kant, *Perpetual Peace*

- **Raz:** ‘demons’, like ‘angels’, would have individual goals that would be more attainable through legal coordination
- **Aquinas:** demons need to form an order to coordinate, but it is legal only in a secondary sense



*The Fall of the Rebel Angels,*  
Pieter Bruegel (1562)

# Why does it matter?

- Raz's 'society of angels' experiment and Aquinas's discussion of the divine government and the 'state of innocence' are important not just for affirming that law is not necessarily coercive, but for highlighting the coordinative function of law
- Despite belonging to different jurisprudential traditions, both Raz and Aquinas appreciate the coordinative function of law
- They differ on what ends ought legal coordination to be oriented towards to count as 'law' *simpliciter*
- This will have application in assessing whether the following have law:
  - Utopian societies
  - **Wicked regimes**
  - Extraordinary measures
  - International law



A mosaic at the Hagia Sophia  
(c. 900-500 A.D)



THANK YOU!

ANY QUESTIONS?